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| APPLICATION NO.        | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|------------------------|-------------|----------------------|---------------------|------------------|
| 10/520,207             | 12/23/2005  | Alan M. Fogelman     | UCLA-P013X1.US      | 9839             |
| 22434                  | 7590        | 10/08/2008           |                     |                  |
| BEYER WEAVER LLP       |             |                      | EXAMINER            |                  |
| P.O. BOX 70250         |             |                      | RUSSEL, JEFFREY E   |                  |
| OAKLAND, CA 94612-0250 |             |                      |                     |                  |
|                        |             |                      | ART UNIT            | PAPER NUMBER     |
|                        |             |                      | 1654                |                  |
|                        |             |                      | MAIL DATE           | DELIVERY MODE    |
|                        |             |                      | 10/08/2008 PAPER    |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/520,207

**Applicant(s)**

FOGELMAN ET AL.

**Examiner**

Jeffrey E. Russel

**Art Unit**

1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1.8-18, 22-26, 29-34, 41-55, 62-72, 76-90 and 97-120 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1.8-18, 22-26, 29-34, 41-55, 62-72, 76-90 and 97-120 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-846)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 20080828
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 28, 2008 has been entered.
2. Applicant's election with traverse of SEQ ID NO:18 in the paper filed February 12, 2007 is acknowledged.

The requirement is still deemed proper and is therefore made FINAL.

3. At claim 34, line 6, single brackets are present around the word "is" in what appears to be an attempt to delete the word from the claim. However, 37 CFR 1.121(c)(2) species that double brackets are to be used to delete small words. Correction is required.
4. Claims 1, 8-18, 22-26, 29-34, 41-55, 62-72, 76-90, and 97-120 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 34, 55, and 90 recite a polypeptide/peptide length range of from 10 to 40 amino acids. However, the claims also require the polypeptide/peptide to comprise the amino acid sequence SEQ ID NO:18, which itself comprises 11 amino acids. The lower limit to the polypeptide/peptide length range conflicts with the size of SEQ ID NO:18. It is believed that the lower limit to the range should be changed from "10" to "11". Claims 101, 106, and 113 are indefinite because they depend, in part, upon canceled claims 19-21. Claim 108 is unclear because it states that the polypeptide is administered in combination with an all L-form of the same polypeptide. However, only three of the claims upon which claim 108 can depend, i.e. claims 22-24, specify particular amino acid

isomers. It is not clear if claim 108 should be interpreted as requiring said polypeptide to comprise at least one D-amino acid, or if claim 108 is satisfied by the administration of an all L-form of the polypeptide. In claims 116 and 118, "said peptide" should be changed to "said polypeptide" so that there is antecedent basis in the claims for the phrases. It is not clear how the word "is" in claims 116-120 should be interpreted. The claims upon which claims 116-120 depend already require the polypeptide/peptide to comprise the amino acid sequence SEQ ID NO:18. It is possible that Applicants intend to interpret "is" as the equivalent of "consisting of".

5. Claims 34, 41-48, 51-54, 82, 89, 100, 115, and 117 are objected to because of the following informalities: At claim 34, line 6, "[is]" should be deleted. At claim 82, line 5, "and" should be deleted from the end of the claim. At claim 82, line 6, "and" should be inserted before "palmitelaidoyl". In claims 89 and 100, "a" should be inserted before "non-human". At claim 115, line 2, "transferrin" is misspelled. Appropriate correction is required.

6. Claims 1, 8-18, 22-26, 29-34, 41-55, 62-72, 76-90, and 97-120 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, and the claim objections set forth in this Office action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey E. Russel at telephone number (571) 272-0969. The examiner can normally be reached on Monday-Thursday from 8:00 A.M. to 5:30 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Cecilia Tsang can be reached at (571) 272-0562. The fax number for formal communications to be entered into the record is (571) 273-8300; for informal communications

Art Unit: 1654

such as proposed amendments, the fax number (571) 273-0969 can be used. The telephone number for the Technology Center 1600 receptionist is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jeffrey E. Russel/  
Primary Examiner, Art Unit 1654

JRussel  
October 10, 2008